

The Honorable Julie Spector
Date of Hearing: December 3, 2010
Time of Hearing: 11:00 a.m.

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

WHITE CRANE TECHNOLOGIES, a
Washington limited liability company;
TNT CART, a Washington limited
liability company doing business as
Strada Technologies; CYBERCOM
TECHNOLOGIES, a Washington
limited liability company doing
business as WIZY-WIZ
ECOMMERCE; JEREMY AVEY,
individually and on behalf of his marital
community; ALEXANDER MARTIN,
individually and on behalf of his marital
community; BRENT STANPHILL,
individually and on behalf of his marital
community,

Defendants.

NO. 09-2-17922-1SEA

ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

~~[PROPOSED]~~

THIS MATTER having come before the Court on State's Motion for Summary Judgment and the Court, having considered Plaintiff's Motion and attachments thereto, and Defendants' Response and attachments thereto and Plaintiff's Reply and attachments thereto, and the oral argument of the parties, the Court ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

1. Plaintiff's Motion for Summary Judgment is hereby GRANTED.

1 2. Defendants and their successors, assigns, transferees, officers, agents, servants,
2 directors, employees, and all other person or entities in active concert or participation with
3 defendants shall be informed of the terms and conditions of this Order.

4 3. Defendants and their successors, assigns, transferees, officers, agents, servants,
5 directors, employees, and all other persons or entities in active concert or participation with
6 defendants are hereby enjoined and restrained from engaging in the following acts and practices in
7 connection with any internet-related businesses:

- 8 a. Making any misrepresentations or material omissions, either implicitly
9 or explicitly, in the context of their sale, advertising or delivery of
10 services including, but not limited to misrepresentations regarding their
11 ability to provide top search engine rankings, their ability to increase
12 traffic to customers' websites, their ability to increase sales, the length of
13 time they have been in business; or their success rate;
- 14 b. Misrepresenting their ability to provide customer support, technical
15 advice, or availability for consultations with customers;
- 16 c. Misrepresenting the terms or availability of refunds, guarantees, money-
17 back offers, or cancellation rights;
- 18 d. Misrepresenting the time by which a web design or other project will be
19 completed on behalf of a customer;
- 20 e. Misrepresenting the quality of their work;
- 21 f. Failing to disclose, clearly and conspicuously, all material contract terms
22 before prospective customers have agreed to be charged for any of
23 defendants' services;
- 24 g. Failing to provide delivery of a fully operable website and/or a package
25 of marketing services as promised;
- 26

- 1 h. Failing to respond promptly to consumers' requests for fulfillment of
2 any guarantees, refund provisions in defendants' contracts, complaints,
3 or other requests for service or information. For purposes of this
4 injunction, defendants will be deemed to promptly respond if consumer
5 requests, complaints, and inquiries are addressed in a professional
6 manner within two business days of the consumers' initial contact;
- 7 i. Doing business under a new name, or under a successor entity, without
8 informing any customers to whom they have any obligation to provide
9 services, of the following information:
- 10 1. Their new business name, physical address, email address, and
11 website;
- 12 2. The fact that all service obligations incurred by defendants under
13 their previous business name or previous business entity will be
14 honored under their new business name; and
- 15 3. That no additional funds are required in order to receive services
16 from defendants under their new business name.
- 17 j. Failing to honor all service obligations incurred by defendants to
18 consumers under any of the names, or any of the business entities under
19 which they have done business in the past, or requiring additional funds
20 in order to provide such services;
- 21 k. Placing charges on consumers' credit cards or debit cards without
22 authorization to do so, or exceeding consumers' contractually agreed
23 limitations on authorized charges;
- 24 l. Billing consumers after they have cancelled their contracts;
- 25
- 26

1 m. If a consumer is contractually entitled to cancellation, failing to
2 promptly cancel service to said consumer when requested to do so
3 through any of the following means:

- 4 1. United States mail;
- 5 2. By telephone;
- 6 3. email; or
- 7 4. facsimile.

8 n. Violating the Consumer Protection Act, RCW 19.86 et seq;

9 o. Failing to register as a Commercial Telephone Solicitor, pursuant to
10 RCW 19.158 et seq;

11 p. Violating the Commercial Telephone Solicitation Act, RCW 19.158 et
12 seq;

13 q. Failing to orally inform consumers of their cancellation rights as
14 required by RCW 19.158.110 or include them in a written confirmation
15 of sale as provided by RCW 19.158.120; and

16 r. Failing to state their Department of Licensing registration number as
17 required by RCW 19.158.110.

18 4. Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendants shall pay the
19 costs and reasonable attorneys' fees incurred by Plaintiff in pursuing this matter in the amount of
20 \$137,529.50.

21 5. Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendants shall pay a
22 civil penalty of \$226,000.00.

23 6. Pursuant to RCW 19.86.080, Defendants shall provide payment for consumer
24 restitution in the amount of \$108,031.89.

25 7. Within ¹⁴~~7~~ days of this Order, Defendants shall identify to Plaintiff those consumers
26 who have complained to them of practices identified in the State's Complaint and the amounts

1 spent by those consumers, and Plaintiff shall be given leave to provide a further Declaration to the
2 Court in support of restitution to those consumers, whereupon the Court shall order such
3 restitution.


4 8. Nothing in this Judgment shall be construed as to limit or bar any other
5 governmental entity or any consumer in the pursuit of other remedies against Defendants.

6 9. Pursuant to RCW 19.86.140, any violation of the terms of this Judgment shall
7 form the basis for further enforcement proceedings, including, but not limited to contempt of
8 Court proceedings and forfeiture of the civil penalty of up to twenty-five thousand dollars
9 (\$25,000) for violations committed after the date of this Judgment.

10 10. The violation of any of the injunctive terms of this Judgment shall constitute a
11 violation of RCW 19.86.020.

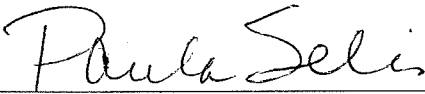
12 11. Jurisdiction is retained for the purposes of enabling Plaintiff to apply to the Court
13 for the enforcement of compliance with the terms of this Judgment.

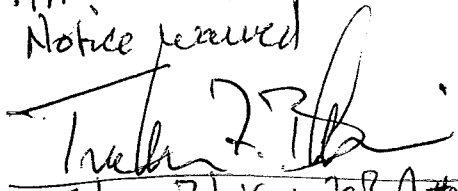
14 DATED this 5th day of December, 2010.

15
16 
HONORABLE JULIE SPECTOR

17 Presented by:

18
19 ROBERT M. MCKENNA
20 Attorney General

21 
22 PAULA SELIS, WSBA # 12823
23 Assistant Attorney General
24 Attorneys for Plaintiff State of Washington
25
26

Approved as to Form,
Notice served

Tucker Blair, WSBA # 9567
Attorney for Defendant